

November 15, 2024

VIA ECF

The Honorable Paul G. Gardephe
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: American Civil Liberties Union v. U.S. Department of Homeland Security, et al., No. 1:20-cv-10083-PGG

Dear Judge Gardephe,

Pursuant to this Court's Order of September 16, 2024, ECF No. 49, in the above-referenced Freedom of Information Act ("FOIA") case seeking records related to the defendant agencies' purchase of cell-phone location data for immigration enforcement and other purposes, we write, jointly with counsel for Defendants, to provide this Court an update on the progress of this case.

Since the last joint status update letter filed on September 16, 2024, ECF No. 48, Plaintiff and Defendants have continued to engage in document exchange, review, and negotiation concerning production and redactions. The remaining issues regarding records from U.S. Customs and Border Protection have also been resolved. At this time, the parties are actively focusing their efforts on records held by two agencies: U.S. Immigration and Customs Enforcement ("ICE") and the United States Secret Service ("USSS"). Below is a summary of progress broken down by agency:

- **ICE:** On July 12, 2024, ICE produced re-processed records to Plaintiff. Plaintiff reviewed these re-processed records and notified ICE on August 1, 2024, that Plaintiff has no further questions regarding those records for the purpose of the instant litigation. Further, before resorting to motion practice, the parties are currently endeavoring to negotiate a resolution concerning some redactions and withholdings that Plaintiff seeks to further pursue. Specifically, Plaintiff is awaiting a response from ICE about a question that was reiterated to ICE on August 1, 2024. ICE responded to Plaintiff's question on November 15, 2024, with a question of its own and will endeavor to respond to Plaintiff's question upon receiving a response. On October 25, 2024, ICE produced two re-processed records to Plaintiff, which Plaintiff has reviewed, and on November 15, 2024, ICE produced additional re-processed records to Plaintiff.
- **USSS:** USSS produced additional responsive records to Plaintiff on June 26, 2024. Plaintiff reviewed the records and requested a draft *Vaughn* index justification for one

document on July 10, 2024. USSS provided the requested draft *Vaughn* index justification on September 24, 2024, which Plaintiff has reviewed. Also on July 10, 2024, Plaintiff reiterated its May 13, 2024 request for an update on the status of USSS records that were referred to other agencies for processing. For the documents referred to the Department of Homeland Security (“DHS”), DHS sent a response on November 14, 2024, which was intended to include the responsive records but did not attach them. USSS is working to rectify this issue. For the documents referred to the Transportation Security Administration (“TSA”), USSS anticipates that TSA will make its release by mid-December.

The parties will continue to work diligently to move this case forward. We request leave from the Court to file a further status update letter on January 17, 2025.

Respectfully submitted,

/s/ Nathan Freed Wessler

Nathan Freed Wessler
Ashley Gorski
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
nwessler@aclu.org
agorski@aclu.org

Robert Hodgson
Christopher Dunn
New York Civil Liberties Union Foundation
125 Broad Street, 19th Floor
New York, NY 10004
(212) 607-3300
RHodgson@nyclu.org
Counsel for Plaintiff

MEMO ENDORSED

The Application is granted.

SO ORDERED:

A handwritten signature in black ink, appearing to read "Paul G. Gardephe", written over a horizontal line.

Paul G. Gardephe, U.S.D.J.

Date: December 12, 2024